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Before the Federal Communications Commission
Office of the Secretary
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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JUL 21 2004

Federal Communication Commission
Bureau / Office

COMMUNICATIONS SERVICES DIVISION

JUL 22 P 2:10

In the Matter of)
)
Amendment of Section 73.202(b),)
Table of Allotments,)
FM Broadcast Stations)
(Cambridge and St. Michaels, Maryland))

MB Docket No. 04-20
RM-10842

To: Assistant Chief, Audio Division
Media Bureau

**REPLY TO OPPOSITION TO
TO SUPPLEMENTAL COMMENTS**

MTS Broadcasting, L.C. ("MTS"), acting pursuant to Section 1.45(c) of the Commission's rules, hereby replies to the Opposition to Supplemental Comments (the "Opposition") filed by CWA Broadcasting, Inc. ("CWA").

In its Supplemental Comments, MTS demonstrated that there is no basis to rebut the presumption that Newark, Maryland – as a Census Designated Place ("CDP") – is entitled to the status of a community under the Commission's allocation standards. In its Opposition, CWA belittles the facts and other information contained in the Supplemental Comments because, *inter alia*, "MTS's information consists of hearsay statements obtained and telephone calls by MTS's attorneys and attorney's employees. They do not reflect personal knowledge of the matters at issue." Opposition at 2 n.3. That complaint rings hollow. The information on which the Opposition relies is, for the most part, based on hearsay statements made to CWA representatives and inferences which reflect nothing more than CWA's assumptions rather than personal knowledge.

One example concerns the Newark Fire Department. The Supplemental Comments included declarations from two MTS representatives who spoke with individuals at the Newark

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Fire Department and confirmed that “virtually all of the fire company’s emergency calls are in Newark and within a 10–15 mile radius of the fire station.” Supplemental Comments, Exhibit C. *See id.*, Exhibit B. For its part, the Opposition does nothing more than cite information allegedly contained in a website that the Fire Department serves a 50-square mile area and a conversation which a CWA engineer had with an unknown individual who confirmed the Supplemental Comments’ observation that the Newark Fire Department is manned by volunteers. All of the Opposition’s references are hearsay, do not explicitly contradict the statements in the Supplemental Comments, and may not be accurate.¹

The CWA representative also spoke with an employee at the Newark Post Office who provided information slightly different than the information provided to MTS’s representatives. *See* Supplemental Comments, Exhibits B & C. Again, there is no basis for concluding that the hearsay statements made to CWA’s representative are more accurate than the ones made to MTS’s representatives.

Leaving aside the question of the reliability of “facts,” the Opposition’s contentions fall short of refuting the presumption that Newark is entitled to status as a community:

- The Opposition complains that “Newark does not have a separate listing as a community within a larger phone book and no separate phone book of its own.” Opposition at 5 n.5. As reflected in Exhibit B annexed hereto, Cambridge, Maryland – the community selected by CWA for operation of WINX – likewise does not have a separate phone book of its own.
- The Opposition asserts that the “Worcester Career and Tech Center serves the County rather than Newark, and is itself located outside the Newark CDP.” Opposition at 6 (citation omitted). In fact, as reflected in the web page annexed hereto as Exhibit C, the Worcester Career and Tech Center is identified as being in Newark.
- The Opposition asserts that the location of the Worcester County Solid Waste Facility in Newark “confirms the rural character of the area” and somehow

¹ Attached hereto as Exhibit A are the relevant pages from the Newark Fire Department’s website accessed on July 21, 2004. They say nothing about a 50-square mile service area.

deprives Newark of its status as a community. The foregoing statement is based on nothing more than speculation and unfounded inferences.

- CWA acknowledges that the Newark Station is more than a gas station and has four tables where patrons can eat. The Opposition dismisses the significance of those eating facilities because "this description applies to most of today's gas stations. . ." Opposition at 3. There is no basis for that assertion concerning the character of "most of today's gas stations," and, in any event, it misses the point: in a small community, a restaurant or other eating establishment is not likely to have a large number of tables.

As the foregoing examples demonstrate, the Opposition does not mount any serious challenge to the facts in the Supplemental Comments; rather, the Opposition invokes unverified assumptions and inferences to belittle the business, religious, and educational facilities that provide a source of activity for Newark residents.

WHEREFORE, in view of the foregoing and the entire record herein, it is respectfully requested that (1) Newark, Maryland be deemed to be a community for allotment purposes, (2) the Bureau adopt the counterproposal set forth in MTS's comments to allot Channel 233A to Newark, Maryland, and (3) the proposal set forth in the *NPRM* be denied.

Respectfully submitted,

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Andrew S. Kersting

EXHIBIT A

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EMERGENCY NUMBERS

CAROLINE COUNTY
KENT COUNTY
DORCHESTER COUNTY
QUEEN ANNE'S COUNTY
TALBOT COUNTY



AMBULANCE



Text Telephone (TDD) Numbers

When calling from a payphone, please dial 711 or 911.

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CUSTOMER INFO GUIDE

GOVERNMENT PAGES

WHITE PAGES

COMMUNITY INTEREST PAGES

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HOMELAND SECURITY GUIDE

DINING YOUR WAY

RECYCLING PAGES

OTHER IMPORTANT NUMBERS

Bureau of Motor Vehicle Safety	1-800-424-8802	Chemical, Oil Spills and Technical/Biological Terrorism	1-800-424-8802
Crisis Intervention Hotline	1-800-424-8802	National Hopeline Network	1-800-SUICIDE
Maryland Center for Missing Children	1-800-424-8802	Suicide Prevention Hotline	(1-800) 784-2433
The Family Violence Prevention Fund	1-800-424-8802	National Resource Police	1-800-828-9944
Family Strengthening/Child Abuse Prevention	1-800-424-8802	Suspicious Activity	1-800-492-TIPS
Youth Crisis Hotline	1-800-424-8802	U.S. Coast Guard Search and Rescue	1-800-418-7314
Environment Department of	1-800-424-8802	or	410-576-2526
FBI	410-286-6020	U.S. Marshal Service	410-962-2220
Maryland State Police	410-476-3101	U.S. Secret Service	410-962-2200
Caroline County	410-228-3101		
Dorchester County	410-778-3511		
Kent County	410-758-1101		
Queen Anne's County	410-822-3101		
Talbot County	410-822-3101		
National Police Center	1-800-222-1222		

Note: If any of these numbers are not local calls from your location, dial 1-10 digit numbers.

CUSTOMER GUIDE

Caroline-Dorchester-Kent-Queen Anne's-Talbot Counties White Pages Directory

This directory contains listings for:

Area Codes 410 & 443 - Cambridge, Cadellon,
Centreville, Chestertown, Church Hill, Denton, Easton,
Federalsburg, Galena, Greensboro, Hillsboro, Hurlock,
Millington, Oxford, Preston, Queenstown, Ridgely, Rock
Hall, Sharptown, St. Michaels, Stevensville, Still Pond,
Sudlersville, Tilghman, Trappe, Vienna, Warwick, Wingate

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For 100 word ad set for 3 days - \$75

For 300 word ad set for 4 days - \$200

For 100 word ad set for 4 days - \$100

For 300 word ad set for 5 days - \$250

For 100 word ad set for 5 days - \$125

For 300 word ad set for 6 days - \$300

For 100 word ad set for 6 days - \$150

For 300 word ad set for 7 days - \$350

For 100 word ad set for 7 days - \$175

For 300 word ad set for 8 days - \$400

For 100 word ad set for 8 days - \$200

For 300 word ad set for 9 days - \$450

For 100 word ad set for 9 days - \$225

For 300 word ad set for 10 days - \$500

For 100 word ad set for 10 days - \$250

For 300 word ad set for 11 days - \$550

For 100 word ad set for 11 days - \$275

For 300 word ad set for 12 days - \$600

For 100 word ad set for 12 days - \$300

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SEE LAST PAGES OF THE YELLOW PAGES

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If you need information or assistance in your area, call one of the following Information and Referral Services:

Senior Information Assistance	410-479-1343
Senior Information Assistance	410-479-2488
Senior Information Assistance	410-228-7331
Senior Information Assistance	410-228-0454
Senior Information Assistance	410-778-3636
Senior Information Assistance	410-788-9753
Senior Information Assistance	410-758-0980
Senior Information Assistance	410-758-3719
Senior Information Assistance	410-822-1626
Senior Information Assistance	410-822-8735

DIRECTORY COVERAGE AREA

EXHIBIT B

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Newark Volunteer Fire Company

[FH Network](#)[Local News](#)[FD Profiles/Links](#)[Local Forums](#)[Dept Manager FAQ](#)[Buyers Guide](#)[Other Links](#)**Address:**

8334 Newark Road P.O. Box 82

Newark, MD 21841

Emergency Dispatch Phone: 911**Business Phone:** 410-632-3980 fax 410-632-3980**Fax:****Department Web Site:****Related Web Site:****Email:** nvfd@dmv.com**Member Login**Username: Password: ☐ Remember Me

- [Forgot Password?](#)
- [Why Join?](#)
- [Register Now](#)

FirehouseMail.com[Users click here to check your e-mail](#)**About Newark Volunteer Fire Company:**

No information entered

Department Type: All Volunteer**Services Provided:**

- Firefighting
- ALS Emergency Medical Service
- Vehicle Rescue (Extrication)
- Search & Rescue

Number of Stations: 1

Bookmark This Fire Department Profile for Easy Access:
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RESPONSE & DEMOGRAPHICS

Newark Volunteer Fire Company

ResponseData

Annual Calls (Approx.)

Annual Call Data not available.

Average First Due Response Time

First Due Response Data not available.

Radio Frequencies

Main Dispatch: 46.380 Additional Frequency:

Fireground Operations 1: Additional Frequency:

Fireground Operations 2: EMS Operations:

DemographicData

Area Served

Jurisdictions Served:

Jurisdictional Data not available.

Type of Area: Rural

Population Served

Primary Response Area: 3000

Secondary Response Area/Mutual Aid:

Department is a Member of:

- Md. State Firemans's Assoc. Delmarva Fireman's Assoc. Eastern Shore Fireman's

EXHIBIT C

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Profile

Building Directory

Worcester County Board of Education

6270 Worcester Highway
Newark, MD 21841
410-632-2582
Dr. Jon Andes, Superintendent

Showell Elementary School

11318 Showell School Road
Berlin, MD 21811
410-641-5460
Dr. Stuart Scott, Principal

Ocean City Elementary School

12828 Center Drive
Ocean City, MD 21842
410-213-1800
Ms. Irene Kordick, Principal

Buckingham Elementary School

100 Buckingham Road
Berlin, MD 21811
410-641-0454
Mr. John Gaddis, Principal

Snow Hill Elementary School

5708 Coulbourne Lane Drive
Snow Hill, MD 21863
410-632-1155
Mrs. Eloise Henry-Gordy, Principal

Pocomoke Elementary School

2119 Pocomoke Beltway
Pocomoke, MD 21851
410-957-3171

Mr. Roger Pachella, Principal

Cedar Chapel Special School

5744 Coulbourne Lane Drive
Snow Hill, MD 21863
410-632-3434
Mrs. Rae Record, Principal

Berlin Intermediate School

309 Franklin Avenue
Berlin, MD 21811
410-641-3010
Mrs. Janet Simpson, Principal

Stephen Decatur Middle School

9815 Seahawk Road
Berlin, MD 21811
410-641-2846
Dr. Mel Ross, Principal

Snow Hill Middle School

5719 Coulbourne Lane Drive
Snow Hill, MD 21863
410-632-1727
Ms. Teresa Hammerbacher, Principal

Pocomoke Middle School

800 Eighth Street
Pocomoke, MD 21851
410-957-1567
Mrs. Caroline Bloxom-Hall, Principal

Stephen Decatur High School

9913 Seahawk Road
Berlin, MD 21811
410-641-2171
Mr. Louis Taylor, Principal

Snow Hill High School

305 South Church Street
Snow Hill, MD 21863

410-632-1658
Mr. Mark Record, Principal

Pocomoke High School

1817 Old Virginia Road
Pocomoke, MD 21851
410-957-1484
Mr. Tyrone Mills, Principal

Worcester Career & Technology Center

6268 Worcester Highway
Newark, MD 21841
410-632-2582
Mrs. Jane Pruitt, Principal

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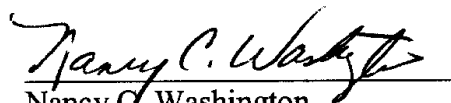
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